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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,121	07/15/2003	Duane R. Remus	3000229-7031202001	7850
7590	03/11/2005			EXAMINER
Bingham McCutchen LLP Suite 1800 Three Embarcadero Center San Francisco, CA 94111-4067			LOPEZ, FRANK D	
			ART UNIT	PAPER NUMBER
			3745	
DATE MAILED: 03/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/620,121	REMUS, DUANE R. <i>(JD)</i>	
	Examiner F. Daniel Lopez	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 7/15/03 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6 October 2003.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Specification

The disclosure is objected to because of the following informalities: on paragraph 10 “a valve is movable between a first position wherein the pump communicates with the rod-side chambers and a second position wherein the pump communicates with the head-side chambers” is confusing, since the main body of the specification shows only one (of 32, via 49) of the rod-side chambers communicating with the pump in the first position (fig 2a), with the other the rod-side chamber (of 12, via 30) communicating with the tank; and only one (of 12, via 28) of the head -side chambers communicating with the pump in the second position (fig 2b); with the other the head-side chamber (of 32, via 48) communicating with the tank. Suggest that the summary of the invention be amended to agree with the detailed description and the drawings. Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pressure sensors and a controller (e.g. claims 7 and 8), wherein the controller moves the valve to the first position when pressure rises above a first threshold and to the second position when the pressure falls below a second threshold (e.g. claim 9) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement

Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They are replete with grammatical and idiomatic errors.

Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line1-14 "a valve movable between a first position wherein the pump communicates with the first rod-side chamber, and a second position wherein the outlet of the pump communicates with the first head-side chamber" is not supported by the specification, since the pump communicates with the second head-side chamber, when the valve is in the second position.

Claim 4 line 1-4, claim 5 line 3-6 and claim 16 line 8-12 has limitations similar to that discussed in the objection to the specification, and is wrong for the same reasons.

In claim 6 line 1-2, claim 11 line 15-16 "the pump comprises an inlet for removing fluid from the first and second barrels" is wrong, since the inlet of the pump is connected to the tank (59), not line 58.

In claim 8 line 4 "cylinders" should be –barrels--, to agree with claim 1 line 2 and 6.

In claim 11 line 14-16 "a pump comprising...a inlet fro removing fluid from the first and second barrels" is wrong, since the inlet of the pump is connected to a reservoir, not to the first and second barrels. In claim 11 line 18-19 (emphasis added) "the outlet of the pump communicates with at least one of the first and second rod-side chambers" is wrong, since the outlet of the pump only communicates with only one of the first and second rod-side chambers. In claim 11 line 21-23 (emphasis added) "the outlet of the pump communicates with at least one of the first and second head-side

chambers" is wrong, since the outlet of the pump only communicates with only one of the first and second head-side chambers.

In claim 16 line 9 (emphasis added) "delivering fluid into a rod side of the cylinders" is wrong, since fluid is delivered to only one of the first and second rod-side chambers. In claim 16 line 12 (emphasis added) "delivering fluid into a head side of the cylinders" is wrong, since fluid is delivered to only one of the first and second head-side chambers.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 11-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Griesbach. Griesbach discloses a pump (10) having an outlet (connected to 12 and c) communicating with first rod-side (1b, connected to a) and head-side chambers (1a, connected to b), respectively, when the valve (50, 51) is in first (fig 3b) and second (fig 3a) positions, respectively.

Claims 1, 7 and 8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Klosterman. Klosterman discloses a pump (271) having an outlet (connected to 324 via 274) communicating with first rod-side (of e.g. 92, via 326) and head chambers (of e.g. 92, via 331), respectively, when the valve (280) is in first (as shown in fig 5) and second (as shown as the alternate position in fig 5) positions, respectively.

Conclusion

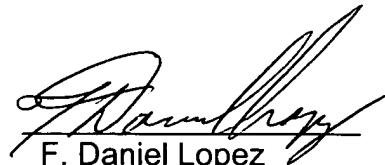
Claims 9, 10, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams refers to a system where a control valve is switched between first and second positions by sensing pressure in a chamber being above and below a threshold pressure. There is no motivation to combine Williams with Griesbach or Klosterman, to meet the limitations of e.g. claim 9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is (703) 872-9306. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.



F. Daniel Lopez
Primary Examiner
Art Unit 3745
March 7, 2005